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Moving Gateway to the Next Level

Since its inception in 2008, DLS Gateway has become an invaluable tool for local officials, DLS staff and a public that is hungry for data on the operations of the Commonwealth's 351 cities and towns.

Creating this electronic system for the submission of information to set tax rates and capture a wide range of data on municipal spending and finance has changed the way DLS works and made Gateway indispensable.

Along the way, DLS has created numerous enhancements to Gateway, ranging from making the filing of Schedule A information easier to creating new ways to access data housed in the Municipal Data Bank.

But there comes a time when it is necessary to reengineer and renew, and we have reached that time for Gateway. And so I am pleased to announce the Gateway Modernization Project.

Let me assure you that this effort should be almost entirely hidden from your view and is being planned in a way as to not disrupt or interfere with current daily operations which are too important to jeopardize. In fact, our FY15 Strategic Plan includes further improvements to Schedule A that are independent of the modernization project.

When the modernization project is finished in three years, Gateway will look and feel much the same as it does now. But, under the hood, it will have a new and more powerful software engine, able to process information more quickly and provide better reporting. DLS IT Director Dave Davies provides an in-depth look at the project in this edition of

City & Town.

I want to thank Gov. Deval Patrick's Administration and the Legislature for recognizing the importance of ensuring that the future of Gateway is bright and secure. This will be no small project; the first-year funding alone is \$1.225 million and by conclusion in 2018 will have cost close to \$6 million.

The commitment and the means to design a new and improved Gateway have been provided. Now, it will be our responsibility - and that of a dedicated team of state IT professionals - to get the job done and at day's end to deliver a product that should assist you to do your jobs more efficiently and with more interoperability, usability and transparency.

Robert G. Nunes
Deputy Commissioner and Director of Municipal Affairs
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DLS Gateway Modernization Project Funded and Underway

David L. Davies - Director of Information Technology

A three year project is now underway to rebuild <u>DLS Gateway</u> using current technologies and enhancing the value of DLS data and processes through new features and integration with other Commonwealth agencies such as MassGIS. The project is now included in approved information technology capital spending for FY15 and its first year's funding totals \$1.2 million.

DLS Gateway is a set of online modules that encompass most of the data transfers and notifications involved in local financial management processes overseen by the Division of Local Services. As such, it is a core work application for DLS employees and the data submission and status-checking site for thousands of local officials.

In technological terms and because of cost-saving approaches used in its initial development, the Gateway system is approaching the end of its useful life. It was pilot-tested in 2007 and fully implemented the following fiscal year, quickly establishing itself as the preferred submission and information tool for all cities and towns due to its ease-of-use and reliability. However, to build it on a tight budget, developers reused program code from the earlier internal client-server system. Along the way, as new features and legislated changes required upgrades, the reliability of the improvised solutions of 2006 became problems in 2014 and beyond.

It is now time to rebuild from the ground up. In the process, the project

will establish a foundation for the kinds of interoperability, transparency and usability that today's users expect in internet applications, both desktop and mobile. The useful life of the rebuilt Gateway should extend from five to ten years from completion.

A key objective of this project is to build and replace modules within the existing online system as they are ready for insertion into a mix of old and new programs. This process should be invisible to the regular Gateway user, i.e. tax rate forms will be unchanged as far as the local accountant or assessor are concerned but underneath the online forms might be entirely re-written programs. So much of the new investment will not be visible, but will increase reliability and performance. To make the difference in methodology clear, this three year programming effort will ensure a gradual transformation, not simply one system being turned off and another turned on.

What will be new and obvious enhancements? Training and continued ease-of-use are important objectives. Instead of static help pages tied to particular modules, the modernized Gateway will offer training videos and constantly updated, searchable guides, for particular forms and for overall processes. A new assessor or accountant could, for example, watch a video on the overall tax rate setting process or on completion of the Tax Recapitulation form. A new treasurer could watch a video on end-of-year budget balancing and free cash certification or on Land of Low Value Foreclosure submissions.

Separate from but, ultimately, related to Gateway is the Bureau of Local Assessment's (BLA) analysis of real estate parcel data and sales for all cities and towns. This project proposes to build on the initiative in the DLS FY15 Strategic Plan and build out the ability for BLA to accept complete parcel data files from communities in order to run certification reports and analyses in-house. In the process and in cooperation with MassGIS for an enhanced public access parcel display application, our goal is to build a constantly updated database with a full set of relevant attributes for all parcels in 351 cities and towns. We would then make such data and related web services available to all including the general public, businesses and other agencies. Allowing uploads of parcel attributes in large communities will require different methods for handling large data sets. We will take this opportunity to improve the processing of large LA3 Sales Report files as well.

DLS also intends to improve the notifications of approvals and key process step completions, making it easy for our staff to tailor the content and formatting of such notifications without requiring programmers' assistance.

We will add features and work with other agencies to establish the Local Officials Directory (LOD) as the primary shared directory for contacting local officials. While the Division is primarily concerned with finance and executive management officials, other agencies should be able to use LOD for their purposes, sharing in the updates entered by

city and town clerks. If, for example, another state agency regularly communicated with municipal public works directors, DLS would expand that agency's ability to update those types of officials and pull data into their applications as necessary. This objective aims at eliminating the duplication and resources devoted to maintaining many directories among all governmental agencies concerned with different groups of local officials. It gets local officials closer to a "single sign on" goal where one username and password is sufficient for accessing different forms in different state agencies to complete and electronically sign.

Along with the programming effort, this project establishes DLS Gateway as a mission critical set of applications for the department that requires dedicated support/maintenance, documentation/training, and quality assurance teams. As local officials who work through the various forms and reports understand, the business rules for processes such as tax rate, certification, EQV, and free cash certification are many and complex. The Commonwealth is making a clear commitment with this investment to build and sustain the personnel who can apply the latest technologies to make compliance with those rules as easy and efficient as possible.

DLS Gateway has steadily improved over the years by incorporating user suggestions and requests. The modernization project will include targeted surveys of different types of users, but local officials are encouraged to communicate ideas any time to their DLS representatives or the IT staff at dlsitgroup@dor.state.ma.us.

New BLA Video Demystifies the Certification Process

Bureau of Local Assessment

The Bureau of Local Assessment (BLA) is pleased to announce the release of its new Overview of the Triennial Certification video. The five minute feature was developed by BLA personnel in cooperation with the City of Gloucester's Assessing Department. Available on youtube and hosted on a separate video player on your website, our goal is to provide accessible content that informs taxpayers and any other interested parties of what actually goes on when DOR conducts a community's certification.

Please give it a look! If you find it informative, feel free to post it to your respective city or town websites as you see fit.

Ask DLS

This month's *Ask DLS* features frequently asked questions regarding property tax exemptions for solar and wind power improvements.

Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

Do any solar and wind power improvements qualify for a property tax exemption?

Solar and wind power improvements are generally taxable unless they qualify for exemption under MGL c. 59, sec. 5, Clause 45. Clause 45 exempts a "solar or wind powered system or device which is being utilized as the primary or auxiliary power system for the purpose of heating or otherwise supplying the energy needs of property taxable under this chapter." (Emphasis added). We believe this means the solar or wind system or device must be installed solely to serve as the main or backup system for heating or supplying energy to the taxable real estate on which the system or device is located or associated, e.g., a contiguous taxable parcel owned by and used as a single estate by the same taxpayer, i.e., the exemption is for property owners who install systems or devices for use on their own properties. Once the local board of assessors determines that the system or device qualifies for the exemption, it is exempt for 20 years. The exemption does not extend to the land and any other real or personal property. A single abatement application is sufficient to apply for the exemption for its duration. We do not believe the exemption extends to systems or devices that have a dual purpose, e.g., a structural purpose, to the land or any other real or personal property on which they are situated, or are built to generate power for tax exempt property, sale to the grid or offsite use. Clause 45 has not been interpreted by the courts, but guidance may be found when the Appellate Tax Board issues the Findings of Fact and Report in a case now pending before it. Forrestal Enterprises, Inc. v. Assessors of Westborough, Docket No. F-317708 (2012).

Are solar panels installed by a homeowner on his rooftop to produce electricity exempt from property taxes under MGL c. 59, sec. 5, Clause 45?

If the solar panels and associated machinery and equipment are owned by the taxpayer, their fair cash value will be exempt if the system is being used as the main, supplemental or backup power system for the property. If excess energy is fed into the grid under net metering, the device is not supplying energy just for the subject parcel. In our view, however, if the system is designed for the purpose of supplying the electrical load of the property, not for generating electricity generally, then the system can still be considered for on-site use and exempt. Similarly, if the panels are leased from a third party vendor, they would be exempt to the extent that the system supplies or is intended to supply the energy needs of the property. The same analysis would apply to commercial property where the system supplies or is intended to supply the energy needs of the property.

If the solar panels are owned by a third party and leased to the real property owner and not exempt under MGL. c. 59, sec. 5, Clause 45, who is assessed the taxes and are the solar panels assessed as real or personal property?

For property tax purposes, solar array panels and associated machinery and equipment may be assessed as part of the real estate if they are intended to remain on the site for their entire useful lives, are designed specifically for the parcel, or might cause damage to the land or equipment if removed. MGL c. 59, sec. 2A. In such case, the solar device is taxable to the owner of the real estate.

However, if the panels are easily removable or intended to be removed and replaced periodically while located at the site, they could be separately assessed as personal property to the owner of the property. It appears many assessors are assessing the leased panels to the solar company as personal property. Whether the company is taxable on all or part of that property will depend on whether the company is treated as a corporation for federal and state tax purposes and if so treated, whether it is in the electric generating or leasing business. See MGL. c. 59, sec. 5, clause 16. Any exemption for the device based on the status of the owner as a leasing corporation would apply even if the property would otherwise have been assessed as part of the real estate to the owner of the real estate. See Rudnick Realty v. Board of Assessors of Westborough, 373 Mass. 856 (1977).

Assessors must decide whether the assets are real estate or personal property based on the degree of attachment. See <u>Boston Edison Co. v. Board of Assessors of Boston</u>, 402 Mass. 1 (1988). (Taxable machinery of a utility used in the manufacture of electricity, and significantly attached to a parcel of real estate, but traditionally assessed as personal property, may be assessed as either real or personal property.)

Are solar panels installed by a third-party vendor on municipal real estate exempt under MGL c. 59, sec. 5, Clause 45 where the electricity generated will be sold to the grid, and the municipality will be sharing the revenue generated by those sales?

If the municipality owned the solar panels, they would not be subject to taxation because real and personal property owned by a municipality is exempt. <u>Tax Collector of North Reading v. Town of North Reading</u>, 366 Mass. 438, 440-441 (1974).

If, however, the third party owns the panels and is "using" the municipal real estate to generate electricity for profit, the third party is subject to taxation for the leased premises and any property sited on it. MGL c. 59, sec. 2B. The third party can qualify for any exemptions a fee owner may be entitled to, but here any power being generated is for the grid so the panels are not "being utilized as the primary or auxiliary power system for the purpose of heating or otherwise supplying the energy

needs of property taxable" under chapter 59 as required for exemption under MGL c. 59, sec. 5, Clause 45.

If the third party is an electric generating company, the municipality may be able to enter into a payment in lieu of tax (PILOT) agreement with it under MGL. c. 59, sec. 38H(b). For more information on PILOT agreements, please see Ask DLS in the August 7th edition of City & Town.

Are solar panels installed on the roof of a building owned and occupied by a charitable organization exempt under MGL c. 59, sec. 5, Clause 45 or otherwise?

It depends on the specific circumstances.

If the charitable organization owns the panels and they are being used to supply the energy needs of the building occupied for charitable purposes, they are not exempt under MGL c. 59, sec. 5, Clause 45 because they would be supplying the energy needs of property not subject to tax. However, they would be exempt under MGL c. 59, sec. 5, Clause 3, whether part of the real estate or as personal property. That is because real estate owned by charitable organizations is exempt if occupied by them (or other charities) for charitable purposes. MGL c. 59, sec. 5, Clause 3. Personal property owned by charitable organizations is also specifically exempt from property tax under that clause.

However, if the panels are owned by a third party in business to make a profit, even if the electricity is used by the charitable organization, the panels and the leasehold interest of the real estate used by the third party business would be taxable. That is because the panels are not owned by the charitable organization and thus not entitled to the charitable exemption. If the electricity is used by the organization, it would not be exempt under Clause 45 because that exemption only applies if the electricity is used by taxable property.

Does the development or installation of solar or wind farms or facilities on land classified under <u>Chapters 61</u>, <u>61A</u> or <u>61B</u> constitute a change in use making the land ineligible to continue classification?

As a general rule, development or installation of solar or wind farms or facilities on classified land will constitute a change in use and trigger a municipality's right of first refusal and a penalty tax assessment, i.e., a conveyance or roll-back, whichever is applicable.

<u>Forest Land (Chapter 61)</u> - To be classified as forest land under <u>Chapter 61</u>, the land has to be "actively devoted" to the growth of forest products. <u>MGL c. 61, secs. 1, 2</u> and <u>3</u>. The initial decision on classification is made by the state forester. Under the state forester's current regulations, the land must be used to grow forest products and

may not include any land where structures are erected or that is accessory to the use of the structures. <u>304 CMR 8.03(3)</u>. The land on which the solar or wind farm or facility is sited does not appear to qualify under those regulations. In that case, the assessors can initiate action by the state forester if they believe land is no longer being used for purposes compatible with the growth of forest products.

Farm Land (Chapter 61A)- To be classified as farm land under Chapter 61A, the land has to be "actively devoted" to agricultural or horticultural use. Actively devoted means the land must be used (1) primarily and directly for agricultural or horticultural production, or (2) in a manner necessary and related to that production, i.e., in a manner that directly supports or contributes to the production, e.g., farm roads, irrigation ponds, land under farm buildings. MGL c. 61A, secs. 1, 2, and 3.

Therefore, if the solar panels, wind turbines and related structures are integral to farm production, e.g., intended to supply power on-site in order to irrigate the fields, then the land would continue to be considered necessary and related land. However, if used for other power generation purposes, then it no longer qualifies for classification. The ineligible land would include land under the solar arrays, wind turbines and any surrounding land necessary for the operation of the solar or wind farm or facility (e.g., access roads) or impacted by its operation.

Recreational Land (Chapter 61B) - To be classified as recreational land under Chapter 61B, the land must be: (1) retained in a substantially natural, wild or open condition, landscaped or pasture condition or forest condition under a forest management plan certified by the State Forester, in a manner that preserves wildlife or other natural resources and be open to the public or held as private, undeveloped land, or (2) be devoted to certain recreational uses in a manner that does not materially interfere with the environmental benefits derived from the land and be open to the public or members of a non-profit organization. MGL c. 61B, sec. 1.

Land on which a solar or wind farm or facility is sited is not undeveloped land being retained in a natural or other permitted condition. It is being used to generate power, a commercial or industrial use and for operational and security reasons, will have limited access, i.e., will not be available for use by the public or a membership organization for one of the permitted recreational uses. Therefore, the land used for power generation purposes would no longer qualify for classification. As with classified farm land, the ineligible land would include land under the solar arrays, wind turbines and any surrounding land necessary for the operation of the solar or wind farm or facility (e.g., access roads) or impacted by its operation.

Corporations Book Updates

Melinda Ordway - Senior Program Manager and Financial Analyst

Annually, the list of *Corporations Subject to Taxation in Massachusetts* is forwarded to assessors each spring. In meeting this distribution objective, the Department of Revenue's Manufacturing Unit makes every effort to render its manufacturing (M) and revocation (R) decisions in order that all are included in the annual list. However, some decisions are made after publication and are retroactive to January 1 of the current year. To notify assessors of these changes, a compilation of subsequent manufacturing and revocation decisions applicable in the current calendar year are posted on the <u>Corporations Book search page</u> throughout the year until the next list is issued.

Beginning with the 2013 Corporations Book, DOR developed a new reporting requirement designed to improve accuracy and usefulness of the list. The new form, called the Annual Certification of Entity Tax Status, enabled DOR to gather supplemental information to identify limited liability companies (LLCs) that should not be included in the book and include subsidiary entities that file combined returns that had been excluded from previous books. Any legal entity, other than a sole proprietor, non-profit or entity that has no personal property in Massachusetts, that is treated as a corporation for federal income tax purposes must file the annual certification in the DOR's WebFile for Business application to verify its status as a corporation to be included in the Corporations Book listing. If a company is not listed and it believes that it should be treated as a corporation and included in the Corporations Book, or if the company is listed but it believes it has been erroneously classified, an appeal to the Appellate Tax Board (ATB) may be filed. That appeal must be filed on or before April 30, or 30 days after the Corporations Book is released to local assessors, whichever is later (MGL c. 58, sec. 2).

The manufacturing and revocation decisions, ATB settlements, and other revisions applicable to the current calendar year will be posted throughout the year on the Corporations Book search page until the next list is issued. The URL link has been renamed "Manufacturing, Revocation and Other Updates." Assessors should periodically check the website for all updates.

Classification of Corporations, the Corporations Book and the Annual Certification of Entity Tax Status Gary A. Blau - Municipal Finance Law Bureau Tax Counsel

The Commissioner of Revenue is responsible for compiling an annual list of corporations subject to property tax, motor vehicle excise and business corporate taxes, under Chapters 59, 60A and 63. MGL c. 58, sec. 2. The list is important for the assessors because it provides critical information to determine applicability of specific property tax exemptions directed at different classifications of corporations. The list

must specify the entities that have been classified as manufacturing corporations and provide other specific information to assist local assessors. This information has traditionally been collected from corporate tax returns filed with the Department of Revenue (DOR) and registration or annual report filings with the Secretary of the Commonwealth. However, with changes in federal law allowing noncorporate entities to file corporate tax returns with the IRS, and the adoption of similar legislation for state corporate excise purposes, it has become increasingly difficult to provide an accurate list of unincorporated companies (partnerships, LLCs, business trusts and the like) that are treated as corporations for federal income tax purposes. Additionally, certain entities that operate a common business together are required to file a consolidated return with the DOR, making it more difficult to ascertain the names and separate tax treatment of any of the multiple entities that make up the business. A further obstacle to an accurate list is the ability of business entities to easily change the form of organization or federal tax treatment received, combined with significant lag times in filing returns under the new organizational form, which often delays the receipt of the necessary information until after publication of the corporations book.

As a result, the DOR initiated a self-reporting requirement for business entities seeking to be classified as corporations to file an annual certification of entity tax status. A change was also made to the Form of List, which now has a place for the filing entity to verify with a confirmation number that the annual certification has been filed with the DOR. The intent of that confirmation is to provide evidence of the classification reported to the DOR, when necessary. However, the failure to include the confirmation number or even the failure to file the annual certification of entity tax status does not, in and of itself, make the taxpayer subject to tax on property otherwise exempt from local tax.

Assessors are bound by the DOR's classification of a company as a business or manufacturing corporation, subject to appeal, if the entity is actually classified as a business corporation or manufacturing corporation. MGL c. 59, sec. 5, cl. 16(5). However, that does not mean that an actual incorporated entity cannot be treated as such by the assessors if it is not listed in the book. Local boards of assessors may also rely on the records of registration and annual reports filed with the Secretary of the Commonwealth or other evidence of incorporation or classification as a manufacturing corporation from the DOR, such as a manufacturing corporation certification letter.

Register Now for "What's New in Municipal Law"

The Division of Local Services Legal Staff will offer its annual seminar "What's New in Municipal Law" for local officials on Thursday, September 25, 2014 at The Log Cabin Banquet & Meeting House in

Holyoke and Thursday, October 2, 2014 at The Lantana in Randolph.

The general session in the morning will review new legislation and recent court decisions pertaining to local government.

The afternoon session will consist of three concurrent workshops on the following topics: (1) qualification of charitable, religious and other non-profit organizations for local tax exemptions, (2) expenditures for public purposes and administration of trust funds, and (3) potential pitfalls when local officials or employees wear multiple hats.

Please click the following for the <u>agenda</u> and <u>registration form</u>. Registrations must be received by Wednesday, September 17, 2014. Pre-registration is required.

If you have any questions about these seminars, please contact DLS Training Coordinator Donna Quinn at 617-626-3838 or by email at dlsregistration@dor.state.ma.us.

Amnesty Tax Offer for Some Massachusetts Taxpayers

MA Department of Revenue

Spread the word! The Massachusetts Department of Revenue (DOR) is holding a two month amnesty program designed to encourage the payment of delinquent taxes by individuals and businesses. The program, which will run from September 1 through October 31, applies to certain tax liabilities billed on or before July 1, 2014. In September, qualifying taxpayers will receive a Tax Amnesty Notice from the Department of Revenue notifying them that they qualify for the tax amnesty program. Notices will provide taxpayers with their individual period balance, amount of unpaid penalty to be waived if the amnesty balance is paid in full by the due date and the amnesty amount due. Taxpayers who qualify for the amnesty program have already been billed by DOR for their outstanding tax liability. Under the program, DOR will waive all assessed, unpaid penalties for taxpayers who respond by making a full payment on all outstanding taxes and interest for any period listed on the notice by the October 31 deadline.

The amnesty program covers a variety of individual and business tax types including: individual income tax, withholding tax, sales and use tax, meals tax, meals tax local option, personal use tax, cigarette individual excise tax and cigar/smoking tobacco tax.

For more information about the program and how to participate, DOR has set up a <u>webpage</u> and <u>Frequently Asked Questions</u>.

September Municipal Calendar				
September 15	Accountant/ Assessors	Jointly Submit Community Preservation Surcharge Report This report (CP-1) is a statement of the prior year's net Community Preservation Surcharge levy, and is used to distribute state matching funds on November 15.		
September 15	Local Reporting Officers	Submit Smart Growth School Cost Reimbursement Report to DLS Local Reporting Officers report (a) local smart growth property tax and excise tax revenue for prior fiscal year or (b) municipality's waiver of reimbursement.		
September 30	Taxpayer	Deadline for Submitting Forest Land Certification and Management Plan, M.G.L. Ch. 61 According to M.G.L. Ch. 61, Section 2, this is the deadline to submit to the Assessors the State Forester's certification and approved management plan in order to have the land valued as classified forest land in the next fiscal year.		
September 30	Municipal and District Treasurer/Collector	Submit Compensating Balance Report If compensating balance accounts were maintained during the prior fiscal year, a report and account analysis schedules must be submitted to DOR.		
September 30	Accountant/ Superintendent/ School Committee	Jointly Submit End of Year Report to the DESE Schedule 1 - determines compliance with prior year Net School Spending requirement. Schedule 19 - determines compliance with current year		

		Net School Spending requirement.
September 30	Accountant	Submit Snow and Ice Report This report is a statement of snow and ice expenditures and financing sources.
September 30	Treasurer	Year-End Cash for the Previous Fiscal Year (due upon submission of a balance sheet for free cash/excess and deficiency certification) A reconciliation is the process of comparing the Treasurer's accounts to the Accountant's/ Auditor's or Schools Business Manager's ledger balance to determine if they are consistent, and for the officials to make any necessary corrections. When the reconciliation is complete, the Accountant/Auditor/School Business Manager should indicate agreement with the Treasurer's balances. Reconciliations are required annually, but communities and school districts should reconcile monthly for their own purposes. The year-end report as of June 30 must be completed and returned to DOR. Municipalities and school districts should also use monthly reports to monitor cash practices of the Treasurer's office. If the Accountant/Auditor/School Business Manager and Treasurer are not consistently reconciling cash accounts, or if the reconciliations indicate variances, the Mayor, Selectmen or School Committee should inquire as to the reasons.

September 30	Treasurer	Submit Statement of Indebtedness Massachusetts General Laws Ch. 44, Sec. 28 requires the Director of Accounts to maintain complete and accurate records of indebtedness by cities, towns and districts. This statute also requires Treasurers to furnish any other information requested by the Director in respect to the authorization and issuance of loans. This Statement is the annual report required from Treasurers to accomplish this purpose. Treasurers should reconcile their debt records with the Accountant/Auditor before filling the Statement of Indebtedness to ensure that the Statement and balance sheet are in agreement.		
Final Day of Each Month	State Treasurer	Notification of monthly local aid distribution. Click www.mass.gov/treasury/cash- management to view distribution breakdown.		
To unsubscribe to <i>City & Town</i> and all other DLS Alerts, please click <u>here</u> .				